FOREIGN NEWS.

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CONSTITUTIONALITY.

In a late number of the New York Nation a communication is published from Prof. James B. Thayer of the Harvard Law School on a plession of popular wrath. Thomas C Campandel which is now engaging the attention of many people in this state. It is a common opinion that courts should declare laws unconception that courts should declare laws unconheld It is not. It is quite uniformly laid down nothing but fairly defend his elbert. No one that courie should not declare laws unconstitutionally will presume for a moment that Mr. Campbell tional unless it is a very plain case, and it is a geing to make any damaging admissions, put as strongly as this viz., that the matter Who ever heard of "an able criminal lawver".

on the domain of another without danger. The jury fixing, no briber and no tempering with safety of our institutions depends in no small jurys in legal sense. When such things are degree on a strict observance of this salutary done the shrowd criminal law; or takes good care

and the patric ism of the legislative body by which has any law is passed, to presume in layer of the jures in the case also feels conits validity until its violation of the constitution atrained to offer an apology and defense. He tion is proved beyond all reasonable doubt."

class of constitutional questions, he age, is he has been interviewed on the subject ( the continuation of con the constitution, but that of dockding whether as could be expected in the circumstances. From another department has acted unreasonably.

If the conclusions of the judiciary and of the jury were in favor of acquitting the mur. egislature differ as to what the constitution darer from the start, as seven voted on first balpormits, it is to be accepted that the fredicinary lot for a verdict of not guilty. Mr. Ph hips, are, for the most purposes, to pass finally upon the jures alluded to, contended that the defend. the matter. In determining the constitution- and should be sent to the penitentiary for life, ality of logislative sotion, a court is called upon to consider what, under the constitution, is the first degree. He finally voted to make the the admissible view, rather than what is the offense manslaughter, well knowing that under right view of legislative power. The question such a verdict the murdorer could not be sen-before it is this: Had the legislative depart-ment kept with a a reasonable interpretation of All the secrets of the jury room are not its power? Does the question of its conformity to the constitution fairly admit of two opintions? If it does admit of two opinions, then
the legislature is not to be deprived of its
cholce between them; for this choice is a part
that threats had been made on the very first day
that they would be kept in confinement for or that mass or regulative functions which here long to it and not to the court." The judiciary, in other words, must not even negatively assume the legislative function. The quimmon form in which courts put the question to themselves, viz. It is the law constitutional; is a of that mass of tegialative functions which her thirty-three days unless there was a compreseives, viz: Is the law constitutional? is a apartment, and was supplied with an imitter dangerous one. An illustration of this is seen in the language of Justice Bradley in the civilious to get out as soon as possible," and saw no rights cases where he says: "Are these sections way of escape from his predicament except by constitutional? Has congress constitutional autrendering his conviction that the offices) was power to make such a law? We have carefully considered those arguments, and have fult in all its force the weight of authority which al-

constitution, has discharged its office or exercised its judgment in an unreasonable manner.

If this be so, it is much to be defree, that it may be ignorant, prejudiced or corrupt, but if whented he more distinctive recognized than it. should be more distinctly recognized than is they are resolute and aggressive and deal libersidered in a precise form. For it seems plain out, they usually gain their ends. They have that our constitutional system, in is notual been amply supplied with "organization by the development, has tended to bereave our legis- "able" shysters for the defense, and since poor lature of their feeling of responsibility and grab, dirty beds and stuffy rooms have no tertheir sense of honor, and also to lead the com-munity off into mistaken views as to the office of the indictary. It is a common saying in our tem which renders possible such percursions legislative bodies when any constitutional point of justice is certainly very far from being peris raised. Oh, the courts will set that right,' feet.
and it has been said. I believe often, that the Is it not, in fact, time the practice were weakast objection you can raise to a proposed measure in a legislative discussion is the constitutional objection. Certainly the courts food and pure air? How can it be expected have often assumed a tome that tended to cathat men who have money or influence to es-

aphers is that. Any species particular vector fairly and compromise vertices and in proper to pass is a valid sistinte, and one when the moral and intelligent sentiment of trols all right, private and public. The American constitution is based upon a different case of the difference is one of the amount with a substitution of the amount with a substitution of the compromise vertical and when the barharous customs of an amount with a substitution of the compromise vertical and intelligent sentiment of the amount with the properties of the compromise vertical and intelligent sentiment of the compromise vertica most vital and distinguishing differences becaway. tween our constitution and that of Great Britain. The common sense of the American people has always acted upon the idea that in cases where the course have declared a law unconstitutional and void, the judicial department is paramount to the executive or the legislative artments. The three branches of the govcourt should not assume the legislative function, and never except in a very clear case undo themselves. It read: the work of the representatives of the people.

The safety of our institutions depends in no small degree, as Chief Justice Walte says, upon artist observance of this principle. the work of the representatives of the people. a strict observance of this principle.

was a cowardly dedger during the war, hanging he had had those diseases in an incipient in the rear of he army, ready to be on either side for a cons deration." Time was when all court held, that from the fact that the man had this would have been expiated on the field of these diseases at the time he averred that he "honah." Bu: things have changed.

nomination for the office of prosecuting attor-ner for the resson that he believes he wellknown position as a supporter of high license would embarase his party. Well, then, if he thinks his party a free whisky party he might there can be no fraud or concealment in the thinks his party a free whisky party he might be justified in whing himself out of it. However, the distribution of the little way is the later of the distribution of the little way. ever, Mr. Sean, in standing up for high license sgainst the party lash, is to be commer ded for his independence and courage.

consequences of the more all fraud or the consequences of the misrepresentation. When Hon. J. W. "Thalley has been spoken of as a it can be shown that the applicant for a Lie increase. Because it is not be shown that the applicant for a Lie increase. It is understood that he would secont. to be not. It is unaccessful in Europe, where he has been for a pany is not bound by its contract.

He is still in Europe, where he has been for a pany is not bound by its contract.

Heretofore court rulings have too often been year past, but will return bome in July.

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LAWYERS, JURIES AND JUSTICE. in favor of the insurance companies as against the right of the policy holder. The supreme court has catabilished a precipile in companies indicated in produced. had its origin in popular indignation produced by repeated miscarriages of justice. Ocuments of the press on the causes of the riot have brought out a number of interesting statements cpinion that courts should declare laws nuconto the allegations that the jury had been cor partial examination. Coloud Healett makes stitutional when they think them so, assuming,
of course, that the crestion is nearestly leftered. says this is the could secure a favorable verdent for \$5000, the mines under the expedition of petting the generally to generally a constant of the could secure a favorable wordent for \$5000. The denies that there was anything wrong in the trial of the could secure a least till it is of course, that the question is properly before the could secure a favorable verdict for \$5000. sound; but in the sense in which it is generally trial of the case, and declares that he did

onst be pisin beyond a renronable doubt. He will be any affirmed, unch. Thus, in the sinking fund cases, 90 U.S. at less an offense indictable only in the should hever be made except in a clear case. Every possible presumption is in favor of the validity of a stabute, and this continues until the contrary is shown beyond a rational doubt. One branch of the government cannot encrowed on the domain of another without danger. The safety of the contrary is shown below the contrary in the contrary in the contrary is shown below the contrary in the contrary in the contrary is shown below the contrary in the contrary in the contrary is shown below the contrary in the contrary in the contrary in the contrary is shown below the contrary in the contrary in the contrary is shown below the contrary in the

Azain, in Ogden vs. Sanuders, 12-Wheaton, no testimony which Mr. Campbell can offer p. 270, Washington J., saye: this but a decent will be likely to modify public opinion someora-

a proved beyond all reasonable doubt."

procise fruction of the judiciary in this cinnati to St. Louis, at which last named there

Does the question of its conformity vulged by Mr. Phillips, but he reveals enough

wars invests a law that enegress deems itself ing the rule of the majority in the jury from; compotent to pass. But the responsibility of and while it might not prevent bithery and coran independent judgment is now thrown upon ruption, it would save an honest mine ity from this court; and we are bound to exercise it ac- the necessity of voting against their colliberate ording to the best lights we have." indgment and sense of right. Here was a man Professor Thayer concludes by saying: "In sween to render a "true" verdict, but according the class of constitutional questions, then, to bis own statement he was forced to subscribe which I am specially referring, it would seem that the functions of the court is not that of for "a year and a day" rather than I ave done fixing the construction of the constitution, violence to his own consciouse. His excess which it believes to be the sound one, but that the was "sick and tired of confinement, had of determining whether another body, tharged heard of sickness in his family and finally came endent function which recident to think that perhaps the eleven against him

by patting the question to be con- ally in threats as to how long they can hold

courage these views. But recent decisions may cape jury duty will serve widle that practice beip to show how great under our system also, is maintained? Let the jury list be unade up is legislative power, and how limited is judicial exclusively of men of high character and let control. Since this is really so, it is a master jurnes have every comfort during their arduto be steadily and heavily emphasized by the one service, and then we may hope that patriotmarts, and no less to be considered by legisla. In citizens will not besitate to make a secrific This view of the office of the judicity is no administration of justice. It is not often that doubt correct. This is a popular government, a man has to serve more than once in two a government of the people, by the people years upon a jury, and this time he should be The people make the laws through their representations of justice. Society contatives, and it is more in harmony of the mast be protected and the only pass to do this ideas of such a government that the direct and well are the intelligent and moral members of immediate representatives of the people should the community. If they neglect their dutiemake their laws rather than that the judges, it is their own fank. We know rich men in s not in as true and full a sense the rep-dives of the people, should make them. at that, who would rather pay ther fine than And yet the constitution of this country has re-posed in the judicial department of the govern-ment not only the determination and construc-the fee that is in the matter, partly because tion of the fundamental law, but the authority they are fond of trials and legal corrects, but to construct he statute laws. In no government chiefly because they have nothing else to do, in the world has such power been vested in the The unwilling and too willing Jurys are not indicial department as in ours. In England, desirable. Jury duty should not be ought, whence our institutions were mainly derived, but, when imposed, should be as religiously parliament is omnipotent. It is the tribupal attended to as any other affair in life. A carecharged with the administration of the unwrit- less or indifferent people will be poorly ruled ten British constitution. Its action in that After all then, we shall have justice meted out sphere is final. Any statute parliament deems fairly and compromise verifiets will conse

LIPH INSURANCE.

A few days since the enprepase court of the United States rendered a decision of great importance to holders of life insurance policius The case in which the decision was made was departments. The three branches of the government are coordinate, but they cannot be coequal at the asme dute and place. And this fact furnishes an additional reason why the court about not a summer the legislative funccompanies insert in their policies to protect

When the man who was insured took out the "That lecherons banger-on of the painted policy, he was asked if he had had asthma, harlot of protection, the Atlanta Constitution, scrufuls or consumption. He answered, no. has the effrontery and insolence to speak of the When he died the company refused to pay his has the enrontery and money." So writes widow the amount of the policy, on the ground Convier-Journal se a free lance." So writes widow the amount of the policy, on the ground Mr. Watterson. The Constitution man retorie: that he had not answered the questions truth-"No man that knows Watterson will ever call fully, and in the trial of the suit which was any paper he has control of a free lance. He brought by the widow it was shown that, though

did not have them, the company was not bound Alfred F. Soara, Jr., declines the democration by the policy. This decision was on a par with hundreds of others, and like the others it was totally devoid of justice. The supreme court has very justly set aside answer the questions housetly, even if he be diseased at the time. The fact that he is unconscious of it absolves him of all fraud or the

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put a sto ; to much of the litigation over t

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Under our new departure we are oftering all goods much below the ruling pri-

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"Well, gentleman, that 'rope was passed from done within a twinkling, and drawed so tight that I winked hard with pain, and I felt the verse swell almost to bursting. And drawed so tight that I winked hard with pain, and I felt the verse swell almost to bursting.

"From my writes they nested the rose tight around my waits, then took a half high remaining that they expended the rose tight continued by well as the other with the contribution.

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Ayer's Pils will simulate the Liver to proper action, and entropy all these troubing, thus or more of these Wile should be taken sight, and health 5, fully established. Thousands testify to their great merit.

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round me. "Treasmir, a big, tall, ugly-looking old to the buck, wearing a groon banket areund him and Mrs. 2. Devidence of Vencourier a bot of dyest turkey feathers in his hair, came father, C. B. Montagor.

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